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IN THE

Supreme Court of the United States

No. 75-1779
OCTOBER TERM, 1976

JACK L. CHESTNUT,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

SUPPLEMENT TO PETITION

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This supplement is filed pursuant to Rule 24(5) to call to the Court's attention an intervening matter not available at the last filing.

STATEMENT

One of the questions presented by the petition herein is whether the campaign contribution statutes under which petitioner was convicted were unconstitutionally vague and overbroad in their definitions of "contribution" and "expenditure". (Pet. pp. 12-19)

Since the last filing, a similar question has arisen with regard to the legality of the League of Women Voters' proposed sponsorship of television debates between certain presidential candidates.

Petitioner contends that the emergence of the question

whether these debates would violate contribution statutes, and the Commission's response to the question, illustrate and underscore the dangers of chilling both First Amendment rights and the public's right to know which are inherent in the present legislation, and were even more grave under the versions of these statutes in force at the time of petitioner's conduct. This in turn emphasizes the importance of having this Court examine the statutes and resolve their ambiguities, or strike them down so that Congress may do so.

We accordingly reproduce hereafter the "Policy Statement" issued by the Commission on August 30, 1976, obtained from the office of the Federal Election Commission, and ask the Court to consider it in conjunction with the arguments in the petition.

POLICY STATEMENT
PRESIDENTIAL DEBATES

The League of Women Voters' Educational Fund proposes to sponsor several debates between the 1976 Republican and Democratic presidential nominees. It is the Commission's view that, in the limited circumstances of presidential debates, the costs incident thereto which will be incurred by the Fund are neither contribution nor expenditures under 2 U.S.C. §§441a and 431 of the Federal Election Campaign Act of 1971, as amended.

There are a number of factors which have brought the Commission to this conclusion. The League has a history of approximately 50 years of non-partisan educational activity in the electoral process, and is, indeed, forbidden by its by-laws to endorse candidates or to otherwise appear in a partisan light. The activity proposed to be undertaken here is in keeping with that tradition. Unlike sponsorship of an appearance by a single candidate, the unavoidable impact of which is to advance the chances of that candidate's election, the debate described in the League proposal does not involve that kind of advocacy or assistance to a campaign to which the Act's contribution limits are directed. In short, it is the Commission's view that the disbursements by the League, or by any other comparable or similarly qualified organization, through a charitable trust fund are not made for the purpose of influencing a Federal election and are therefore not contributions as defined in 2 U.S.C. §431(e) or 26 U.S.C. §§9003(b) (2) and 9012(b). The League may raise funds specifically earmarked for sponsorship of the debates from private individuals. Since these funds are outside the scope of the definition of contribution under 2 U.S.C. §431, they may be made without limit and would not need to be disclosed. However, the Commission believes that the League could further the spirit of campaign finance reform by disclosing the amounts and sources of those donations.

The disbursements by the League's Education Fund are nonetheless disbursements "in connection with" a Federal election and accordingly may not be made with funds from corporate or labor organization treasuries, see 2 U.S.C. §441b, or made by other persons forbidden to participate in the Federal election process by the Act, see *inter alia,* 2 U.S.C. §441c.

The Commission is further of the opinion that a separate segregated fund established by a corporation or labor organization may donate funds, without regard to amount, to the League of Women Voter's Education Fund.

Since this statement a lawsuit has been filed in United States District Court for the District of Columbia, *Anderson et al v. Ford et al,* No. 76-1672, filed September 8, 1976, challenging the position of the Commission and alleging a violation of the unlawful contribution statutes. A hearing is scheduled for September 17, 1976, on a preliminary injunction.

Undersigned counsel will seek to obtain and forward to this Court any rulings which issue in this matter as soon as they are available.

CONCLUSION

For these reasons as well it is respectfully submitted that the petition for a writ of certiorari should be granted.

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